

Persons who take tangible personal property and permanently affix it to real estate act as construction contractors and incur Use Tax on their cost price of tangible personal property that they physically incorporate into realty. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

December 31, 1998

Dear Mr. Xxxxx:

This letter is in response to your letter dated September 17, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We have a client that repairs appliances. In addition, this client also installs air conditioners, washing machines and dryers. The washing machines and dryers are a retail sale. However, I would like a ruling on the installation of the air conditioners. These air conditioners are installed in residences without central air conditioning. They are installed in the wall of these residences. An opening is cut in the wall and the air conditioner is placed in this opening. Therefore, is the air conditioner part of the real estate and not subject to retail sales tax? Should our client be paying sales tax to his supplier or charging his customer the tax?

We would appreciate a ruling regarding the sale and installation of air conditioners that are placed in the wall. These air conditioners are termed sleeve units and become a permanent part of the residence.

If you have any questions regarding this matter, please call. Thank you for your cooperation.

Please be advised that persons who take tangible personal property and permanently affix it to real estate act as construction contractors. See the enclosed copy of 86 Ill. Adm. Code 130.1940. Examples of construction contractors are persons who sell and install central heating or cooling systems, or parts thereof, such as air conditioner compressors or furnaces. In Illinois, construction contractors are deemed to be the users of the items that they permanently affix to realty and owe Use Tax on the cost price of the tangible personal property that they so affix to real estate. See the enclosed copy of 86 Ill. Adm. Code 130.2075. If purchases are made from Illinois registered

suppliers, the tax is to be paid to those suppliers at the rates in effect at the suppliers' location. If purchases are made from out-of-State suppliers not registered to collect Illinois tax, contractors must self-assess this tax and remit it to the Department.

Please note that if contractors make "over-the-counter" sales of items, such as window air conditioning units, that are not permanently attached to real estate, they act as retailers. Such sales are subject to the Retailers' Occupation Tax based upon their selling price. If contractors buy parts that they will sell "over-the-counter," they may purchase such parts tax-free by providing suppliers with Certificates of Resale. See 86 Ill. Adm. Code 130.1405, enclosed, which describes the requirements for Certificates of Resale.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte  
Associate Counsel

GR:msk  
Enc.